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NO. 90-774

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1990

DAN M. LINKOUS Petitioner,

versus

THOMAS J. STOVALL, ET.AL Respondents,

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITIONER'S RESPONSE TO RESPONDENT'S RESPONSE TO PETITIONER'S PETITION FOR WRIT OF CERTIORARI

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ERRORS OF RESPONDENT'S REPLY

1) Respondents don't address Petitioner's five specific issues but procedurally and illogically condense them to two issues.

2) Respondents primarily address the "merit" of this case instead of the specific real issue at bar of improper appeal dismissal.

3) Respondents attempt to "explain away" the duty of the Fifth Circuit Court of Appeals to adhere to procedure "equally and strictly" while in concert wish "wide lattitudes of judicial discretion" applied rigidly to pro se petitioner inconsistent with customary and traditional policy making capricious, arbitrary, and double standard our system of justice.

4) Respondents continue to misrepresent the facts of this case even in discussing the merits as well as the real issue at bar in petitioner's writ violating all professional code of responsibitity and canons of ethics in the legal and judicial community further encouraging deceit, fraud,

misrepresentation and dishonesty as standard operating procedure to obstruct justice and obtain premeditated foregone concluded conspiratorial dismissal of meritorious lawsuit.

5) Judicial abuse and corruption can't be explained away by any argument, especially by pro se litigants.

6) Respondents fail to follow the same stringent guidelines required of petitioner in petition for writ of certiorari in their reply as to page numbering, print size, content organization, etc-, and are granted more lenient and lax extension considerations and joint filing procedure adherence than petitioner, especially a non attorney pro se petitioner from a non power broking, influential law firm.

TABLE OF CONTENTS PAGE

Errors in Respondents' Reply..... i

Table of Contents.....iii

Table of Authorities.....iv

Argument Under Respondent Error 1..... .2

Argument Under Respondent Error 2.....10

Argument Under Respondnet Error 3.....10

Argument Under Respondent Error 4.....10

Argument Under Respondent Error 5.....25

Argument Under Respondent Error 6.....55

Conclusion And Prayer For Relief.....58

TABLE OF AUTHORITES **PAGE**

"The Best Defense", Allen Dershowitz at 27, (First Vintage Book's edition, May 1983) 45

Beaupre v. Beaupre, case no.85-1563 5th Cir. 52,53

Brinnkman v. Dallas County Deputy Sheriff Abner 813 F.D. 744 5th Circuit (1987) 52

Brinnkman v. Johnston 792 F.D.11 5th Circuit (1986).....52

Chipps v. Middle PA. U.S.D.C. Neeland and 3rd Cir. Seitz, 882 F. 2d. 72 3rd Cir. 1989 53

D'Amato "The Ultimate Injustice When The Court Misstates The Facts" is 11 Cardoza law review 1313 (1990).....47,48

Daniels v. Stovall, 660 Fed. Supp. 301 S. D. Tex. 1987.....53

Dennis v. Sparks 449 U.S.24,25-26(1980) 53

Gagliardi v. McWilliams, 834 F.2d. 81 3rd Cir. 1987.....53

Gleason v. DeAnda, case no. H-90-0696 U.S.D.C. So. Dist. Tex., on appeal to 5th Circuit Court of Appeals.....52

PAGE

Gleason v. Stewart case no. 90-5938 5th Cir. on writ to U.S. S.Ct. 1990.....52

Hale v. Harney, 786 F.D. 688 5th Circuit (1986).....52

Hamilton, Gleason, Linkous v. Stovall, case no. 88-1669 5th Cir. (U.S. S. Ct. writ denied 1988).....52

Hamiliton & Gleason v. Robertson, 5th Circuit case no. 89-6144 (dismissed in part, remanded in part -pending).....52

In Re: Oliver, 682 F. 2d. 3rd Cir. 1982 53

Krempp v. Dobbs 775 F.D. 1319 5th Circuit (1985).....52

Linkous v. Henderson, case no. 89-6058 5th Cir. (U.S. St. Ct. writ denied 1990)..53

Linkous v. Johnson, case no.89-2913 5th Cir. (U.S. Sup. Ct. writ denied 1990).....52

Linkous v. Klevenhagen, case no. 87-2100 5th Cir. (U.S. Sup. Ct. writ denied 1987) 53

Linkous v. Linkous, case no. C-7509 Tex. St. Sup. Ct. 9/14/88 (U.S. S. Ct. writ denied 1988).....52

PAGE

Peel v. Attorney Regg and Disciplinary Com.
110 S.Ct. 2281 (1990).....48

Pennzoil v. Texaco, 107 S.Ct. 1519 (1987)
.....11

The Ultimate Injustice: When The Court Misstates
The Facts, Judicial Conference of Federal
Cir. 128 F.R.D. 409, 439 (1989).....47,48

Reed v. Terrilll, 759 F.D. 472 5th Circuit
(1985).....52

Yick Wo v. Hopkins, 1818 U.S. 356 (1886)
.....58

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TO THE HONORABLE U.S. SUPREME COURT:

COMES NOW, Dan M. Linkous, petitioner (plaintiff/appellant), and would show the following in opposition to respondent's reply

to petitioner's petition for writ of certiorari:

ARGUMENT FOR RESPONDENT'S ERROR #1

Although submission of documents for the U.S. Supreme Court should be concise and simplified, the specific issues of petitioner's petition for writ of certiorari are distinctly different and should be addressed individually not collectively for expedition or subterfuge not addressing specific procedural points which terminated petitioner's/respondent's appeal to the Fifth Circuit Court of Appeals. This form of intentional misrepresentation violates the professional code of responsibility and canon of ethics that citizens of this country are told the legal and judicial profession will follow even at the lowest, much less highest level of obligation, responsibility and duty to its profession and oath of office. The procedural rules before commencing an appellant's briefing schedule or before Fifth Circuit Court of Appeals can terminate an appellant's appeal for allegedly failure

to timely file appellant's brief are specific and must be equally and justly applied and not ignored for personal agendas or to discriminate against certain litigants or their case merits. A horse is a horse, a zebra is a zebra, and a horse is not a zebra; for the highest court of this land to allow the Fifth Circuit Court of Appeals to logically equate a horse with a zebra in order to justify their wide lattitude of discretion in terminating a citizen's right to appeal fostering obstruction of justice, is unconscionable. No sequential numbering of this case's file was performed; no transmission of this case file to the Fifth Circuit Court of Appeals was performed. These are essential requirements before briefing schedule and timetable for appellant's brief can be commenced. To use a rule arbitrarily to dismiss some litigants cases and to retain others, is not in the best interest of justice and allows room for personal agendas, personal animosities, discrimination, capriciousness, and ultimate

prejudice and harm to litigants making our system of justice totally untenable, incredulous, and arbitrary.

If this case's file was retained in the U.S.D.C. for ongoing litigation in this matter, especially if it commenced after the filing of the notice of appeal by appellant and petitioner, then that precludes commencement of briefing schedules for litigants until such matters are resolved and the appropriate procedure followed for handling of the record on appeal to the Fifth Circuit Court of Appeals. Respondents wish this body to turn its head from the truth and fact of this case. They refuse to address the issue that the U.S.D.C. unlawfully addressed numerous issues subsequent to the filing of the notice of appeal that were raised both prior to and after the filing of the notice of appeal in order to retain that case file in its possession. Ultimately through its ex parte illegal conspiracy with the judicial and clerical officials of the Fifth Circuit Court of Appeals, the malicious

and bad faith premeditated and foregone concluded demise of this meritorious case was effected. The U.S.D.C. obstructed discovery of petitioner, and allowed numerous improprieties to occur in the prosecution of this case such that it was forced into appeal to the Fifth Circuit Court of Appeals for hopefully appropriate adjudication on its mishandling and meritorious issues. The U.S.D.C. has "thumbed its nose" at our respect for and integrity of our most cherished and highly proud judicial institution.

The collusion of the U.S.D.C. and its clerk's office with some Fifth Circuit Court Judges and its clerk's office in combination with the powerful litigants and their power broking, influence peddling law firm counselors, makes obtaining justice by average citizens nearly impossible, and further concludes that democracy and justice in our country is illusionary and theoretical at best with essentially no practical and realistic basis in fact. Respondent's counsel

do not wish this honorable body or the Fifth Circuit Court of Appeals to review the U.S.D.C. improper handling of this case, nor does it want this body to consider the facts and truth of how this case was terminated improperly, for fear that the predetermined demise of this case might resurrect and hold those culpable in embarrassing and incriminating fashion for their conspiratorial efforts to obstruct justice at the U.S.D.C. and the appeals level.

The Fifth Circuit Court of Appeals clerk's office knows the appropriate procedure in handling the issuance of briefing schedules and what prerequisites must be met "to the letter" before it can issue a briefing schedule and start briefing timetables. It is obvious that the U.S.D.C. improperly retained this case file in its possession and never followed the appellate procedure; no agreement of parties or order of the U.S.D.C. or Fifth Circuit Court of Appeals was consummated to justify retention of these

records by the U.S.D.C. or its clerk's office. No sequential numbering or transmission of the record occurred. The correspondence between the Fifth Circuit and the U.S.D.C. witnesses the obvious demand for and refusal to submit such records until "it was decided" for the case manager to start the briefing schedule improperly to the detriment of appellant and petitioner. This is not a "small variance" from the procedural norm, nor can it be couched in euphemistic terms or minimized in its import as the spirit of our laws is such that they be followed equally and properly so that no litigant arbitrarily, and for ulterior motives, is foreclosed from the court system or its appellate process to address ill perpetrated upon that litigant. The intentional mishandling by the U.S.D.C. and clerk's office and the Fifth Circuit Court and clerk's office was to "sweep under the rug" the most egregiously heinous conspiracy wherein justice is denied by procedural, technical, and administrative "variances" in disguising

them under "wide lattitudes of discretion" of our judges and clerks. The purpose of our U.S. Supreme Court review is to assure that these wrongs are not tacitly approved of or openly encouraged by apathy, intentional neglect, or blatant discrimination against certain litigants and their cases for revealing these improprieties.

This case has not been a failure of the litigant to prosecute but represents a meritorious case obstructed its discovery by "hook and crook" and blatant disregard by certain litigants and their power broking counsel for our basic fundamental tenants of our system of justice. The U.S.D.C. judges who are sponsored and/or affiliated in some capacity with these power broker, influence peddler law firms and attorneys, cannot be allowed to sell out the integrity of our heritage of our system of justice. We should dismantle our bill of rights on its December 15, 1991, 200th birthday, and its constitutional ammendments and retitle our federal procedure "periodic guidelines

possibly used by judges if they so desire in their decision making process on litigants and their case's worth or value". The reason petitioner payed for and requested a jury trial in this matter was to obviate exactly what has transpired procedurally and technically to terminate this very meritorious case.

It is easy for respondents and their counsel to misrepresent and deceitfully, dishonestly, and fraudently make comments about documents in this file, as they know they can without accountability, and with total impunity, obstruct the transmission of this case's documents to "any" review body by the mechanisms utilized in this case. Even respondent's counsel reiterated the complexity and copious nature of this case's file as a rationale for their extention to file their respondent's reply. Petitioner contended it is for this very reason he should have been provided, or given access to, the entire case file in order to properly and completely prepare his appellant's brief

for submission to the Fifth Circuit Court of Appeals; the respondents refuted this at the Fifth Circuit Court of Appeals level, and also in this reply to petitioner's petition for writ of certiorari. Petitioner contends that the "gamesmanship" of using the same argument essentially to support one party's side, and to destroy another party's side of an argument belies the spirit of the law and the real intent and purpose of our judicial system in rendering what's in the best interest of justice, not engaging in moot court debate, logic class excercises, or machiavellian tactics to prevail at any cost.

ARGUMENT OF RESPONDENT ERROR #2,#3,#4

The best "obstruction of justice" plan is the conspiracy/collusion of litigants with judges and clerk's office personnel to violate the fundamental rights and liberties of litigants by making the case file complex and voluminous and involving many participants and precluding access to case file for appellate review after

wrongful termination. Even in Pennzoil v. Texaco, the voluminous contents of this complex case required additional time, herculean efforts, and astronomical expense to organize, copy and edify the file in preparation for appellate review to address alleged trial court points of error. Because petitioner is pro se, he is absolutely discriminated against by the legal and judicial community and the business and commercial interests they serve. His financial resources makes petitioner not a true pauper but relatively a pauper in his ability to address the issues of providing the entire record in making the best arguments, especially when he can't even get the sequentially numbered file transmitted to the court of appeals, or have them adhere to the procedure he is so rigidly and structurely told he must adhere to in prosecuting his case. In an attorney vs. "pro se" battle of "who shot John?" adjudicated by judges who are attorneys, the burden is more than onerous from its

inception. The obvious "conflict of interest" is apparent to all citizens of this country. Pro se litigants aren't asking for lenient treatment but do not wish to be discriminated against and have more harsh, strigent, prejudicial applications of rules and/or customs and traditions applied to them to foreclose their access to the courts and right to redress ills perpetrated upon them and their property and family with some equal application and enforcement and substantive due process.

Respondent attorney Taylor addresses the "merit" issues of this case instead of the issue of improper dismissal of petitioner and appellant's appeal by the improper handling of this case's file and the disregard for the procedure before starting appellant's timetable. The attempt by attorney Taylor through misrepresented fact and legal issues of this case's merit, is a very blatant and direct attempt to prejudice and bias this honorable review body, by his "catch phrases", and allusions to aspects of this lawsuit,

which he knows is distasteful to another attorney or judge, which has nothing to do with the essence of the petition for writ of certiorari issue at bar. This blatant professional code of responsibility and canon of ethic violation is standard operating procedure in "pandering to the purient interests" of judges by pushing their "trigger buttons" in mentioning certain embellished aspects of the facts of the case, along with the argument of the specific issue at bar. This is tantamount to illegal ex parte, and hopefully this honorable ultimate review body will not lend dignity to the tactic, or credibility to its misrepresented facts.

Attorney Taylor is counting on so biasing the review judges in this case that they will dismiss the petition for writ of certiorari, even though well founded, predicated on the distasteful task of possibly resurrecting a law suit which will not only be embarrassing but incriminating to their cohorts and fraternal cronies of the power broking and influence peddling legal and

judicial system which petitioner complains of and wishes justly and fairly addressed by this body.

Attorney Taylor states the court of appeals had adequate "alternative" grounds for dismissal of petitioner and appellant's appeal as it lacked merit; how would the court of appeals know if this case lacked merit or not as it made its decision without any record and without brief of parties? There was no dismissal of this case on its merit at the Fifth Circuit Court of Appeals but it was done by single judge with a definite "conflict of interest" and direct ties to the defendants and defendant's attorneys and law firms. Just as the trial court obstructed the discovery process to justify dismissing this meritorious case in the U.S.D.C., it refused to transmit the more than ample file documentation to the Fifth Circuit Court of Appeals so it could ascertain for itself whether this case lacked merit as "alternative" grounds for dismissal.

Attorney Taylor's assertion that the

petition for writ of certiorari should be denied because of lack of merit of petitioner's unlying claims, has nothing to do with the heart of the issue at bar; petitioner would relish the opportunity to have time and complete file access to adequately brief the merits of this case at the Fifth Circuit Court of Appeals or with the U.S. Supreme Court so that one of those two bodies could adequately determine if there is "complete lack of merit" as additional rationale for dismissal of this case. The misrepresentations by defendants and their counsel at the trial court level, is only surpassed by its fraudulent, deceitful, and dishonest misrepresentation at the Fifth Circuit Court of Appeals and in its reply to petitioner's writ of certiorari filed with the U.S. Supreme Court. How would anyone know whether this case is meritorious or not because it has been entirely misrepresented and obstructed from having its facts available for a review body to determine its merits? The whole purpose

of petitioner wishing a review of this case by the Fifth Circuit of Appeals and U.S. Supreme Court was to have the facts of this case under scrutiny for evaluation of its merit besides the legal arguments as to the properness of its handling at the U.S D.C. and Fifth Circuit Court of Appeals. This has been totally obstructed and denied petitioner and is one of the rationale for the request for granting petition for writ of certiorari so that this can be properly addressed for the best interest of justice.

Attorney Taylor's stating this appeal is only one of many lawsuits filed by petitioner against his former wife, is blatantly false and has no bearing, even if it was truthful, on this particular case. Attorney Taylor so relies on extraneous, irrelevant, biasing and prejudicing comments to influence a judge from being an interpreter of law and a trier of facts that he is unable to follow rules and principles as an attorney that pro se litigants are so brow beaten and down trodden about adhering to the legal

and judicial system. The numerous comments by attorney Taylor about alleged other lawsuits have no applicability to this case, and are totally misrepresented and exaggerated. The lack of integrity, moral fiber, conscionability, and ethics of attorney Taylor hopefully will not be rewarded by this court and certainly hopefully not encouraged as good "lawyering tactics". The attempt to create the allusion that this case was simply frivolous, vexatious, and harassing, is hammered home to prejudice this honorable body; petitioner contends that if any court had an opportunity to evaluate the facts evidenced in this case to date that attorney Taylor and others would be found to be blatant prevaricators to this honorable body. I personally take afront that our great United States Supreme Court institution can be lied to by attorneys from powerful influential law firms with impunity as it detracts from its honorability and signals the community that this great body can be disrespected by those of "certain

position" against others who seek justice but are not of such preferentially treated position. Attorney Taylor continues with a long laundry list of misrepresented aspects of this case which he cannot substantiate by his appendix and fails to "tell the whole truth" in the related matters which can only be understood by review of the complete record.

Attorney Taylor fails to inform this body that discovery depositions were halted on three occasions by court orders and on three other occasions by filing of numerous protective orders and hearings that "stalled discovery and progression of this case" for almost four years. By the time petitioner had opportunity to do discovery numerous deponents refused to appear and on motions to compel and sanction, the U.S.D.C. refused to force their deposition before discovery cut off. The most blatant mockery of our judicial system is the U.S.D.C's refusal to make the primary defendant in this lawsuit, attorney Donn Fullenweider (power broker

president of the marital attorneys of the United States), be compelled or sanctioned for failing to appear at a scheduled deposition on three occasions. The continued instilling of emotional baggage and collateral attack by mentioning the "divorce" of this case with its incumbent political and public opinion aspect deters from the appropriate administration of justice. Attorney Taylor fails to state that attorney Junnell (son of Judge Junnell of the Harris County, 14th Court of Appeals, who participated in many of the state court decisions culminating in this lawsuit) is from Andrews & Kurth lawfirm, where Edith Jones at the Fifth Circuit Court of Appeals has great power and may be the next U.S. Supreme Court Justice. The fact that another attorney was appointed to represent defendant Nancy Linkous (even though she did not have to prove her pauper status or file a sworn C.J.A. affidavit) only to be replaced by the presiding judge as he was a "solo practitioner" and had no "clout with the

higher judiciary" is unconscionable. The blatant illegal ex parte meeting between defendant's counsel and the presiding judge with written correspondence to petitioner's then counsel indicating that quashing of depositions resulted from that illegal ex parte meeting halted discovery again for approximately three weeks prior to trial; later petitioner learned that this illegal collusion humorously attested to by the presiding judge and Fulbright & Jaworski lawfirm, indicates their perception of unaccountability at the higher courts. The list of improprieties not related by attorney Taylor, and the blatant misrepresentation of the facts should not be condoned and is another reason why the petition for writ of certiorari should be granted. The blatant wire tapping, mail interception, and use of interstate banking transaction by the defendants in their racketeering capacity has not been addressed by attorney Taylor. To date petitioner still has not been allowed to see his children for over three years

because of defendant Nancy Linkous' belief that she "is above the law" as long as she is affiliated with her power broker influence peddler attorneys and co-defendants in this case. This sends a very wrong message to our society. The state courts have totally abdicated from involving themselves in petitioner's matter and whether petitioner had two children or ten children, he should be allowed a forum to address his civil rights violation in regards to his denial of access to state court relief for this civil rights violations. Our family units are allowed to be destroyed with its encumbent devastation by apathy and negligence of our state federal judiciary.

Attorney Taylor continues to mention the records at the Fifth Circuit Court of Appeals which never were transferred there; there is no substantiation to these misrepresented comments in his "statement of facts" in his appendix and they represent more of his exaggeration, embelishment, and misrepresentation, which he hopes this court

will believe because petitioner is pro se and no record is available as attorney Chandler (McKinnley) emphasizes as a point of his argument against granting the writ.

The continued citing of cases, much like "filler" concerning the merits of this case and the rationale for the wide lattitude of discretion of courts to dismiss cases "for whatever reason" regardless of how arbitrary, capricious, and improper cannot be applied until the record is transferred and examined to determine if merit exists as a collateral element for dismissal. Petitioner contends that the "gamesmanship" of supplying appropriate number of cases to back any position one takes has over shadowed the basic premise that the statements made by the relator be true and factual and not false and misrepresented. Attorney Taylor misrepresents petitioner's request for the entire record to be filed in the court of appeals as the request was for the entire "designated transcript" to be filed and not a partial transcript or a piece of paper

which a judge says is comparable to the sequentially numbered transcript per the Federal Rules of Procedure (a horse is not a zebra even if a U.S.D.C. or Fifth Circuit Court of Appeals judge says it is). Attorney Taylor alludes to the volume and tone of motions by petitioner as another prejudicing and biasing tactic to divert one's attentions from the real facts and truth of the matter; it is blatantly apparent that the defendants and their counsel are extremely frightened and concerned about this case ever being reviewed by honorable men and women. The tactics and the degree to which this conspiracy has gone to "deep six" this lawsuit is appalling and unconscionable. This case may be dismissed by this honorable body but it certainly will not be "swept under the carpet" and will be edified by all who wish to confirm their perceptions of our judicial system and its future course as to justice for its citizens as opposed to business and commerce for its attorneys and judges.

Petitioner contends alternative grounds

for dismissal can only occur when the record is fully and completely evaluated before the decision of lack of merit is made. This was not done in this case. Attorney Taylor uses the "in the alternative" to protect his request for dismissal, and asks that the appeal be reinstated if he cannot convince by "hook or crook" this honorable body to just "trash the matter". His concern about further harassment to respondents is ludicrous and indeed if they are guilty of their accused complaints, then this honorable body should not indemnify and allow their actions to go unrecognized and unpunished or else there is no system of justice in this country, except an arbitrary, capricious, and self serving "buddy system" among the powers to be. In attorney Taylor's quoting local rule 34, it is very clear in that rule and in the prevailing case law that before a case can be discerned as having no merit, it must be adequately and completely reviewed; the Fifth Circuit Court of Appeals had no record whatsoever in its possession to review, and

strictly made its decision on its illegal ex parte, and hearsay communications with the defendants and their counsel and judges and clerks involved and not the record. This illegal and unethical violation of the trust of the people of this country should not and cannot go unchallenged.

ARGUMENT OF RESPONDENT ERROR #5

Petitioner realized the wide lattitude of discretion of the courts but if they are completely arbitrary, capricious, and fundamentally corrupt and rule strictly on what is in their best interest and the legal and judicial "system"business best interest, then the citizens of this country should revolt in protest, and demand the constitution and their fundamental rights and liberties be protected by a mechanism other than our federal appellate review system. The premise that the underlying case lacks merit is false; petitioner simply wanted an opportunity to brief the case so that the Fifth Circuit Court of Appeals would have an opportunity to determine if there was merit to this case.

It was obvious that no one wished the merits of this case revealed because the conscionability and integrity of some of the Fifth Circuit Court of Appeal's Judges might preclude them from allowing this travesty of justice to continue. They might feel compeled to rule against their attorney and some judge cohorts and cause controversy and embarrassment. Judges have become legislative policy makers, public opinion reflectors and deitous decision makers about citizens rights to family, property, livlihood, etc-Petitioner wanted an impartial trier of and interpreter of law without bias, prejudice, and discrimination. How far does the "wide lattitude of discretion" go? In this particular case the U.S.D.C. prematurely ruled on parts of this case and made sanctions which were not timely applied for by defendants and were ultimately dismissed by the Fifth Circuit Court of Appeals. This is also not mentioned by attorney Taylor. These sanctions are not used for rehabilitation, education, or abuse deterence

but are used as punishment and exclusion of "certain litigants" and their cases from our judicial system. This is common policy with pro se litigants not because of their lack of due diligent investigation, ineptitude or inexperience, ignorance of the law or even their emotional involvement in their cases but stems from the long heritage of discrimination against pro se litigants and litigants with controversial cases who have illegalities perpetrated upon them, their family, and property by corrupt attorneys and judges. No attorney will represent clients who have had the most heinous of crimes perpetrated upon them by these power broker influence peddler defendants, therefore a litigant must pursue his case pro se or else default and allow the judicial system and its subserved judges and attorneys to arbitrarily and capriciously render verdicts in litigants cases without due process, equal application and enforcement, or access to the courts. Attorney Taylor essentially states that the Fifth Circuit Court of Appeals

can do whatever it wishes in regards to litigants lawsuits. If there are no rules or guidelines or boundries, then this is true. In this particular case, they are so far afield, it is blatantly embittering to all those aware of this case of the abuse of discretion and blatant misrepresentation, fraud, deceit, and dishonesty.

Attorney Taylor includes as appendix c, the "original complaint", which was filed by petitioner when he was in bankruptcy, and without funds for counsel; this was a result of chief U.S. Bankruptcy judge stating that he was granting leave of stay to petitioner to file in "any court", "any document" he wished in order to gain access to his children which have been wrongfully kept from him. Even the U.S. Bankruptcy judge knew of the corruption involved and wanted petitioner to have access to our courts to redress these ills. The 3rd ammended complaint which was timely filed, is not included in attorney Taylor's appendix and most accurately and concisely relates the

facts and allegations in their pre trial proved basis by discovery performed, although admittedly constrained and limited intentionally by the U.S.D.C. The presiding judge's assigning five hundred dollars per deposition taken to be placed in escrow by petitioner, while petitioner was in bankruptcy and had limited funds for such, is another unconscionable obstruction of justice that attorney Taylor fails to mention in his statement of the case. The sanctioning of defendant Judge Huckabee by the Judicial Conduct Committee of Texas and the lawsuits filed against him for threatening the life of a subpoena server and falsely imprisoning another subpoena server should not be approved of by this honorable body. The blatant disrespect shown by certain deponents when they stated they will never appear for deposition, makes mockery of our discovery process and system of justice.

Petitioner wishes this honorable body to take judicial notice that attorney Brian Chandler is the counsel of record, and not

attorney Jack McKinnley; no substitution of counsel of attorney McKinnley for attorney Chandler has been appropriately made. No notice was made to petitioner by defendant Flake or her counsel, attorney Chandler, of this "last minute late" supposed change of lead counsel and its procedurally and technically and even by custom and tradition, improper. Attorney McKinnley has never participated in this case, and has no knowledge of the case, except what would be related to him by attorney Chandler or defendant Flake, or by his review of the record, which petitioner contends he has not reviewed. Certainly this court, like the Fifth Circuit Court of Appeals, can do anything it wishes and has "ultimate wide lattitude of discretion" but prevailing case law is clear that this attorney has no working knowledge of this case and has never participated in its litigation and for him to sign and file this on behalf of attorney Taylor is improper without notice to petitioner.

Attorney McKinnley cites rules of procedure regarding the handling of the record on appeal; no record excerpts or partial record was ever transmitted to the Fifth Circuit Court of Appeals and no semblance of an entire original record was ever transmitted when the Fifth Circui Court of Appeal's single judge "made its decision". Petitioner wishes this honorable body to take note of the attorney's condescendingly pejorative and personally hostile attack of petitioner, creating an unobjective milieu to evaluate the objective data of this case. Respondent's counsel continually refer to matters outside of the "appendix" submitted by them or petitioner and reference petitioner's appendix in many of their comments. Apparently attorney McKinnley accepts petitioner's appendix accuracy and condones outside of appendix statements if is serves his purposes but uses this tactic to detract from petitioner's petition for allegedly the same behavior. Petitioner contends petition for writ of certiorari

speaks for itself, and documents alluded to by petitioner are included in the appendix, either whole or excerpts and are not outside the record as attorney McKinnley misrepresents. Petitioner would like to have had the entire pertinent transcript supplied this honorable body to ascertain the facts and merits, much like he wished for the Fifth Circuit Court of Appeals but this has been impossible because of its voluminous, complex and inaccessible nature.

Petitioner takes umbrage at the unprofessional and irrelevant comments by attorney McKinnley, referring to petitioner's comments as "venting of frustrations by pro se plaintiff convinced of his unjust treatment"; this is a prejudicing, unethical, unprofessional, and "low stooping" means of attack by an attorney who obviously does not wish to address all of the issues objectively in question. Petitioner has not attacked the known personal and professional deviancies and short comings of some of the defendants and their counsel

participating in this case and feels to do so, even by inuendo would be improper as is attorney McKinnley's comments in personal attack on petitioner through direct comments and subtle inuendos.

Attorney McKinnley proceeds to "tell the tale" of the statement of the case without any substantiating documents in his appendix for many of his "out of context" irrelevant comments such as "respondent Muriel Flake ran afoul of petitioner when serving as court appointed psychologist in his divorce"; this is blatantly false and no document exists to prove such. Attorney McKinnley insults the intelligence of petitioner and disrespects this court by behaving in what he previously condemned petitioner allegedly for doing in his petition. Is there no end to the blatant high handed arrogance of some power broker law firm attorneys and their misrepresentation, fraud, deceit, and dishonesty?

In attorney McKinnly's summary of argument, again numerous statements about

the facts and occurrences in this case are made without substantiation, and are totally misrepresented and taken out of context. He states that certain statements are well supported by the pleadings and applicable standards, and yet he can't support with documents in the appendix, many of these allegations. Petitioner realizes the complex voluminous nature of this case makes it difficult to present an adequate appendix, and would like to have had more time himself to prepare a complete appendix for this honorable body but was restrained by time and finances which the defendant's counsel cannot complain of nor did he take advantage of. In the summary of the argument attorney Taylor refuses to address the issue of the "complete record" being sequentially numbered and transferred to the Fifth Circuit Court of Appeals, and whether he has knowledge of exactly what was sent, if anything, to the Fifth Circuit Court of Appeals by due diligent investigation before he comments on such in this reply. "Shooting from the

hip" seems to be standard operating procedure by powerful lawyers, especially against lowly pro se litigants, who have been beaten up on and down trodden, only to be adjudicated by a judge who is also an attorney.

Attorney McKinnley attempts to absolve the Fifth Circuit Court of Appeals from responsibility by stating that it "tried to obtain the record from the U.S.D.C. without success"; one can imagine the difficulty that pro se petitioner has had in obtaining discovery, the record on appeal, or just consideration of his request for extension of time to file his appellant's brief. Attorney McKinnley wishes this honorable body to believe that an unsubstantiated clerk to clerk letter from the U.S.D.C. to the Fifth Circuit Court without agreement of parties or judicial order, is sufficient to consist of a "sequentially numbered complete transcript of record"; attorney McKinnley wishes this honorable body to state that a horse can be a zebra when it's in the "big law firm

attorneys" best interest but that a horse is definitely a horse when it applies to pro se litigants. Attorney McKinnley alludes to the documents "provided by petitioner" in regards to the district clerk's actions concerning the record but has no direct knowledge of such; attorney McKinnley states "it is obvious that the district court ordered, and the court of appeals approved, keeping the record in district court on appeal"; there is no proof to this and is simply an inference made by attorney McKinnley without proof and diametrically opposed to the great weight and preponderance of the evidence allowed to be presented to date. This is a futile attempt to justify dismissal of this case, although a dishonest, deceitful, fraudulent, and misrepresented basis for such. Attorney McKinnley does not supply the "entire index or file" or even documents he refers to for this court's edification but makes criticisms of petitioner's failure to do so. Petitioner hopes this sophomoric and banal tactic will not influence the

honorable U.S. Supreme Court as attorney McKinnley apparently feels he can bamboozle petitioner pro se litigant Linkous with. Attorney McKinnley fails to apprise this honorable body of all of the motions considered filed before and after the notice of appeal was filed, supposedly justifying the retention of the record at the U.S.D.C. This "not telling the whole truth" is common place and arbitrarily applied for punitive reasons on particular litigants. Attorney McKinnley resorts to the "failure to have access to the record" as the primary grounds for the Fifth Circuit Court of Appeals decision; this is only one small part of the entire improper procedural handling of the record which justifies the extension of time, and therefore granting of the petition for writ of certiorari for petitioner. Attorney McKinnley states that the "content of the record was well within his grasp"; he again makes a statement about something he knows nothing of and has no proof of. The evidence is against this.

Is an attorney held to a different standard than a pro se litigant when before any judge who is an attorney? Can continued misrepresentations, unsubstantiated allegations, and blatant prevarications be justified and tolerated simply because the reviewer and trier of law is an attorney first, and a judge second?

Attorney McKinnley fails to apprise this body that the file of this case was "lost" even to the distict clerk's office for months and was eventually found in an office of a law clerk no longer working with the presiding judge of this case's court. If to prevail at any cost, including failure to tell the whole truth and misrepresentation and deceit, is all that this honorable body is concerned with then the citizens of this country should have a more realistic appraisal of what to expect from there judicial system if this is tolerated. Again attorney Taylor makes comments about attacks made by petitioner on persons and institutions as a "personal attack" against petitioner; this

is an adversarial lawsuit and involves numerous civilly [illegible]al and criminal behaviors by individuals charged with the highest responsibility and obligation to not violate this trust and obligation. Petitioner is rightfully aggravated and disgusted with the defendants and their counsel, not only for their acts delineated in the "original complaint" and its ammended forms but in their tampering with the procedural integrity of our appellate process by corrupt means to deny access to courts and obstruct justice by not having petitioner's lawsuit adjudicated on its merits. Petitioner has not "ignored his obligation to file his brief" but does demand that the same standard be applied to the defendants and their counsel, and their "friends of the court" and clerk's office as is applied to him in attempting to procedurally, technically, and administratively keep his case alive so it can be adjudged on its merits and not on misrepresentation, tampering with evidence,

and obstruction to discovery and justice. Attorney McKinnley fails to apprise this body "for completeness" of the numerous leniencies granted by the presiding U.S.D.C. over this matter to many of the defendants and their counsel repeatedly but denied petitioner in his prosecution of this lawsuit. This double standard creates not only arbitrariness and capriciousness but great cynicism in our average citizens. This condoning of corruption will only hasten the self destruction of a self serving greedy, double standard big business of our legal and judicial system if some sense of decency is not instilled into it. Although defendants fail to timely file requests for sanctions against petitioner, and the Fifth Circuit Court of Appeals denied their sanctions predicated on this, the U.S.D.C. judge some months later approved those sanctions over the previous ruling of the Fifth Circuit Court of Appeals, creating a quandry which even the defendant's counsel in this case does not wish to address. Attorney McKinnley

continues in his "alternative" approach that even if procedure was violated, petitioner failed to seek extension of briefing deadline timely; this is blatantly false. Petitioner timely filed his request for extension and was told by the case manager and the assistant deputy clerk that it was "standard operating procedure" to grant a "first time extension" to nearly all those that request it. Petitioner contends that certainly he can be the only one denied this and discriminated against in this regard but the preponderance is in favor of granting an extension as long as timely filed and in many instances reasonable extensions are granted to litigants, even "untimely" filed. The purpose is for the best interest of justice not for "clearing the docket" and getting rid of incriminating and embarrassing lawsuits. The imposition of falsely arrived at deadlines to petitioner is in diametric opposition to the treatment to defendants and their counsel in numerous deadlines allowed extensions by the U.S.D.C. in this case.

Certainly no litigant, even with the best of attorneys would have a chance in this system if the only purpose of those "in power" is to make sure the case is dismissed at all cost. Petitioner attests to and admits that he will always lose in regards to the statement that if everyone wants a particular lawsuit to go away, it can be made to go away whether it is proper, just, or moral, just as if some individuals can probably get away with robbing, raping, and killing other individuals because of their position in life. Petitioner's obligation is to fulfill his responsibility to see that wrong is not allowed to go unchallenged or unpunished but cannot control the actions of those in responsibility, trust, and obligation to bring justice to our citizenry. If the judges in our courts wish litigations to be decided a certain way, then no litigant has any opportunity to have justice delivered him. If one or a few individuals are denied justice then our whole country is in anarchy without democracy. Petitioner contends that

labeling this suit as groundless and vexatious and assessing abusive sanctions for is bad faith deprivation of access to courts and represents invidious discriminatory animus and brutalization of certain litigants won't forestall their courage and forthrightness, nor suppress their integrity, morality, and conscionability, which this country and its judicial system was founded on. Misrepresentations, deceit, fraud, and dishonesty is standard operating procedure by attorneys in their desire to prevail; it is the obligation of our highest charged judiciary to protect the citizen's rights and not defer such becoming part of the problem instead of part of the solution. Petition or any honest concerned citizen will never be afforded "justice" in this country. No argument can be made by the frustrated and demoralized litigant who is discriminated against by attorneys and judges for being forced to represent himself (not for ego and emotions but out of necessity) pro se in a matter he feels so strongly about,

spends great time, effort, and resources in addressing, and is obstructed by the numerous technical, procedural and administrative options open to the collusion of judges and attorneys and their clerical subservients to terminate, prematurely, litigation before it can either be fully discovered and made record of, or before it can be fully adjudicated on its merits. Few cases or treatises are published on pro se discrimination and legal or judicial terrorism and tyranny against average citizens. Petitioner, after a complicated divorce and a draining bankruptcy, while still in bankruptcy, was forced to address this issue with what small reserves remaining; his attorney represented him until funds were exhausted and the threat and intimidation to his legal counsel in continuing representing petitioner forced him to abdicate. The only advice is to sue one's representative attorney, and not to proceed with one's meritorious case unless one is ready to be discriminated against by the

cliche of criticisms of attorneys and judges to pro se litigants. How can a litigant argue lies and misrepresentations by attorneys and intentional clerical and judicial fraud, deception, and corruption that ultimately results in the demise of his litigation? Judicial and lawyer fraud has natural offspring of official corruption and extortion, and has become epidemic in our judicial branch. In "The Best Defense", professor Allen Dershowitz states of the "elite" legal system, corruption and hypocrisy of top level judges that

> "one working title for his book was Black Robes, White Lies"; "that would have been appropriate because lying, destortion, and other intellectual dishonesty are endemic among judges. In my twenty years of experience in the practice of law,I have been more disappointed by judges than by any other participants in the criminal justice system."

His book states "how pervasive judicial

dishonesty has become"; he ponders "why judges are permitted to get away with, and indeed are often praised for this kind of intellectual dishonesty, is an important and largely unanswered question confronting the American legal system". He claims that students are "constantly exposed to the temptation to cheat elite" by "observing the respected judge who falsely claimed to have read a transcript". "Cheat elite is the most insidious form of corruption in the American legal system today because nobody tells those who practice it that they are as corrupt as those who take bribes".

The "cheat elite", judicial fraud, obstruction of justice, deprivation of access to the courts or due process, unfair tribunal, invidiously discriminatory animus, or whatever the label, this putrid process confronts the Supreme Court who are voluntarily sworn before God and the people to oversee and administer this honest and moral anchor of our nation. A lonely legal ethicist, professor Monroe Friedman, presented his

study of "frivolous and vexatious" judicial opinions to the judicial conference of the federal circuit; he says

"Frankly, I have had more than enough of judicial opinions that bear no relationship whatsoever to the case that have been filed and argued before the judges. I am talking judicial opinions that falsify the facts of the cases that have been argued,judicial opinions that make the disingenuous use or omission of material authorities, judicial opinions that cover up these things with no publication and no citation rules". Certainly increasing judicial salaries and providing for more judges was not the answer for Lord Chancellor Cokes' counselor Francis Bacon whose corruption nearly four hundred years ago is legend as compared to the austerity of honorable Sir Thomas Moore, his earlier predecessor.

Professor Anthony D'Amato addressed judicial fraud as diabolically evil in "The

Ultimate Injustice; When a Court Misstates The Facts"; he states

"If we take the most elementary interpretation of the last term justice... we must acknowledge that justice, in any situation, depends upon a full and fair accounting of the facts of that situation. If, instead of facts, fictions are introduced that are contrary to the facts, then any claimed just solution based on such fictions cannot achieve justice in the real world. The proposition is so elementary that it usually goes without saying."

Certainly the U.S. Supreme Court addressed the disastrous course of judicial and lawyer fraud and extortion represented by "Peel v. Attorney Reg. and Disciplinary Comm.". This 1990 case addressing potentially misleading and deceptive practice of attorney advertising touches the very tip of the larger

iceberg of our legal and judicial system's problems. Professor D'Amato stated "we should ask ourselves what kind of judiciary system this society has produced where judges can misstate the facts of a case, and then proceed to apply the law to those fictitious facts". Can any person be safe in court if this practice is allowed to continue? If judges can listen to the evidence and then tell a contrary story, what remains of justice? The vaunted security we have in our free country and a just legal system turns to quick sand. Our case may be factually proven, legally required, and morally compelled, but we can still lose if the judge changes the facts. And if we complain...no matter how loudly... higher courts will not be interested in reviewing a "factual controversy, and the legal community, as well as the duped general public, will assume that the facts were those stated by the judge." He further states that "I suggest that practicing attorneys be asked whether they have had cases where the judge's

statement of facts were false. Every practicing attorney to whom I have asked this question has responded in the affirmative; some have told me that the practice is unfortunately quite common, and that judicial misrepresentation of facts of cases has produced a crisis in their professional lives. They feel that their work is subject to the whim of judges who play God with the facts of the case, changing them to make the case come out the way the judge desires. Some say that if they had known that the practice of law would be like this, they would have gone into a different profession." He continues in regards to students of law to state "when a student is asked to make a legal argument on behalf of a party who according to the given facts, should clearly lose, professors will not except a student who says that the party should simply lose. Instead they encourage students to come up with any arguments, however contrived, on behalf of the party who should lose. We encourage glibness,

we penalize honesty, we applaud fabrication, we discourage sensitivity of justice. We tell our students that it not the attorneys job to make a judgement about right and wrong but rather to represent the client, irrespective of right or wrong. That training which we take pleasure inmparting in our classes, has its effect upon those one or two students sitting in a classroom who will someday become judges. They too can become cynical by our pervasively amoral, technicratic approach to the legal solutions. The notion that a lawyer has an obligation to defend a client, whether the client is right or wrong, tends over time to devastate the lawyer's own sense of morality."

When judges and attorneys state they do not discriminate against pro se litigants or do not deal with them on a more critical and hostile basis, they usually are lying. The obligation of our most highest judicial authorities is to set an example to preclude this wrongful behavior. It is not in the best interest of the big business and commerce

of the legal and judicial system but it is the only interest that the citizens of this country have imparted such authority and entrusted such responsibility into these high judicial officials to ensure for the citizens of this country. In Reed v. Terrell, Gleason v. Huckabee, Hale v. Harney, Krempp v. Dobbs, Beaupre v. Beaupre,Linkous v. Johnson, Linkous v. Linkous, Gleason v. Stewart, Gleason v. DeAnda, Hamilton & Gleason v. Robertson, Hamilton, Gleason, Linkous, v. Stovall, Brinnkman v. Johnston, Brinnkman v. Dallas Co. Dep. Sheriff Abner, etc- are examples of case where pro se litigants or their threatened and intimidated solo practice attorneys have facts of their case misrepresented, and are procedurally, technically, and administratively improperly handled and ultimately have their case dismissed and are sanctioned excessively as a means of "setting an example and sending a signal to the community" for punishment and retaliation for requesting justice in the revelation of truth, as opposed to "taking

what the system wants to give them" in being content with blatant wrong injustice, immorality, illegality, and corruption. In Chipps v. Middle Pa. U.S.D.C. Neeland and 3rd Circuit Court Seitz,, Gagliardi v. Mcwilliams, and In re: Oliver the issue of lattitudes of sanctions even in the more easily attacked cases is addressed as is the most easily attacked case Daniels v. Stovall. In the Hale v. Harney (used to foreclose most pro se litigants at the Fifth Circuit) or Beaupre v. Beaupre, Linkous v. Klevenhagen, and Linkous v. Henderson, plaintiffs obtained counsel, paid counsel, and expected competent, comparable diligent advocacy only to have their attorneys abandon their cases after threats, intimidation and jointly and severally liablous sanctions were imposed to hopefully prevent such future actions revealing the embarrassments and incriminations of the attorneys and judges who were fraudulent, deceitful, misrepresentative, and dishonest. Certainly, in Dennis v. Sparks, the wrongful application of an injunction

upon a residence for six years with incumbent damages was addressed and stands as one of the lone Fifth Circuit Court of Appeal's cases where judicial abuse intolerance has ever prevailed even to the limited degree it did. In petitioner's case the fundamentally unconstitutional judge-lawyer dishonesty, fraud, deceit, misrepresentation, and obstruction of plain simple indisputable truth is reechoed by the "catch phrases" that attorney Taylor and McKinnley bring up in their reply in hopes of signaling this honorable Supreme Court that it's time to "dump another case" for the system. I hope this honorable body will not stoop to such a low level and allow these despicable players to prevail which causes greater loss to to our system of justice and decency then to petitioner. These individuals should not be allowed to deceive this court and its heritage and institution in which the citizens of this country entrust their lives, property and futures.

ARGUMENT TO RESPONDENT'S ERROR #6

Attorney Taylor has ii page marked without any content. His reply does not address the specific issue of procedural mishandling of petitioner's appeal for the purpose of petition for writ of certiorari. Attorney Taylor includes Thomas Henderson and Nancy Linkous as additional respondents, joining in his reply as joint response to petition for writ of certiorari but their is no documents in the appendix or signatures on this or other documents by those respondents or their counsel to verify this. It becomes hearsay and unsubstantiated at best. If counsel for Nancy Linkous and Thomas Henderson have collaborated with attorney Taylor in this response then they should verify such, and be responsible as to sanctionability and/or perjury, or false verification and/or certification of such document which they have not. On page 17, attorney Taylor under "prayer for relief" includes two lines which leave the rest of the page empty and carry over to page 18

to finish. On page 18 there is a certificate of service which is not supposed to be included in the reply document. These are some of many that petitioner and other pro se petitioners have been criticized for and strigently held to adhere to or else have their pleadings stricken regardless of their content. Apparently these same rigid and strigent rules don't apply to attorneys as they do pro se litigants. In attorney McKinnley's reply there is no substitution of counsel for attorney Chandler, who was the only attorney of record throughout all of the proceedings of this case, and therefore attorney McKinnley having no knowledge of any of the proceedings and having never participated in any of the proceedings, cannot file this reply document with any certainty or any due diligent investigation, much less verification as to genuineness of fact. The reply of attorney McKinnley has print size inconsistent with the rules, especially in the table of contents and table of authorities. Attorney McKinnley includes

on page 1, more than the questions presented for review, including more rhetoric and misrepresentation, apparently not to be substantiated by his appendix or any cited documents in this case. Attorney McKinnley copies, as part of his appendix, documents which he states signatures are illegible, and makes other alterations and/or deletions in these critical documents without having apparently due diligently researched and checked these documents before including them in his appendix. This shabby lack luster and cavalier approach to this case permeates the case from its inception to date by defendants and their counsel. The extension of time for attorney Taylor and then ultimately attorney Chandler (not attorney McKinnley) has been granted by this U.S. Supreme Court Clerk's Office and judicial body over objection of petitioner. The extension of time far exceeds any extension requested by petitioner in order to file his original petition for writ of certiorari. Petitioner is uncertain whether the extension

of time includes Nancy Linkous and Thomas Henderson and their counsel or not, as the procedural propriety in their inclusion parenthetically by attorney Taylor in his reply is unsubstantiated to begin with. Petitioner realizes that this honorable body and its clerk's office can dismiss this petition for writ of certiorari without even having looked at it or read it, as many of the pro se litigants have been treated in the heretofore mentioned cases, and will presumably be in other similar cases in the future. Petitioner contends this blatant unequal application and enforcement and obvious invidiously, discriminatory animus (Yic Wo v. Hopkins) toward pro se litigants harms the legal and judicial system deeply.

CONCLUSION AND PRAYER FOR RELIEF

For the reasons and arguments set forth heretofore by petitioner to respondent's counsel's reply to petitioner's petition for writ of certiorari, petitioner requests that this honorable body deny the dismissal of his petition for writ of ceriorari and

grant his petition for writ of ceritiorari to the Fifth Circuit Court of Appeals. Petitioner prays that this case will be granted petition for writ for certiorari so that it can have opportunity to be briefed by petitioner as appellant so that it can conceivably, however honestly or dishonestly be reviewed and addressed by the Fifth Circuit Court of Appeals Panel, who failed to look at any of the merits of this case in its premature dismissal to begin with. Petitioner prays that this honorable body sanction the defendants and their counsel for all the misrepresentations, deceit, fraud, and dishonesty utilized by them to prevail in overturning petitioner's petition for writ of certiorari to the Fifth Circuit Court of Appeals.

Respectfully submitted,

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